

Town of Lexington
Town Clerk's Office

Nathalie L. Rice, Town Clerk

Tel: (781) 698-4558

Fax: (781) 861-2754

TOWN BULLETIN

RE: Office of the Attorney General – Approval of General Bylaw and Zoning Bylaw Amendments, 2021 Annual Town Meeting, March 22, 2021.

DATE: July 29, 2021

Notification has been received from the Office of the Attorney General, dated July 28, 2021 of the approval of Articles 27, 32, 33, 34, 37, 39, 41, 42, and 44 for amendments to the General and Zoning Bylaws, as voted at the 2021 Annual Town meeting.

NOTE: A decision on Article 29 has been delayed subject to the receipt of Legislative Approval.

Annual Town Meeting 2021, March 22, 2021

General Bylaws:

Article 27 – Amend General Bylaws – Increase in Recreation Committee Membership

Article 32 - Amend General Bylaws - Receive Appraised Value for Removed Trees

Article 33 – Amend General Bylaws – Tree Bylaw: Data Collection and Education

Article 34 – Amend General Bylaws – Tree Bylaw Fees and Mitigation Payments

Article 37 – Amend General Bylaws – Stormwater Management (Chapter 114)

Zoning Bylaws:

Article 39 – Amend Zoning Bylaw- Historic Preservation Incentives

Article 41 – Amend Zoning Bylaw – Structures in Setbacks

Article 42 – Amend Zoning Bylaw – Floodplain Management

Article 44 – Amend Zoning Bylaw – Use and General Regulations

NOTE: Article 29 amending the General Bylaws was submitted for approval with this group of Articles from the 2021 Annual Town Meeting. Article 29 contains two motions, the first of which is a petition to the Massachusetts State Legislature to adopt the local bylaw proposed in Motion 2. Please see the Attorney General's decision on Article 29, delaying approval of Motion 2, subject to the receipt of Legislative approval under Motion 1.

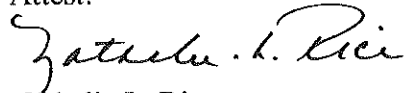
In accordance with Ch. 40 §32 of the Massachusetts General Laws, this amendment is hereby posted in a public place in each precinct of the Town for public inspection and on the Town's website. Additionally, due to Covid-19, this Bulletin will be posted in the Lexington Police Department foyer, 1575 Massachusetts Avenue. Amendments to the General Bylaws take effect

on the date of posting. Zoning Bylaw amendments are deemed to have taken effect from the date voted by Town Meeting.

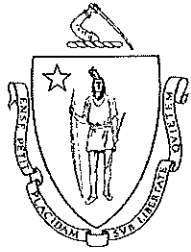
Additional documents pertaining to Zoning General Articles may be requested by email from the Planning Office (lkaufman@lexingtonma.gov) or the Town Clerk's Office (clerk@lexingtonma.gov).

Claims of invalidity by reason of any defect in the procedure of adoption or amendment of Zoning Bylaws may only be made within ninety days of this posting.

Attest:

A handwritten signature in cursive script, appearing to read "Nathalie L. Rice".

Nathalie L. Rice
Town Clerk



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

July 28, 2020

Nathalie L. Rice, Town Clerk
Town of Lexington
1625 Massachusetts Avenue
Lexington, MA 02420

Re: Lexington Annual Town Meeting of March 22, 2021 -- Case # 10066
Warrant Articles # 39, 41, 42 and 44 (Zoning)
Warrant Articles # 27, 29 (b), 32, 33, 34 and 37 (General)

Dear Ms. Rice:

Articles 27, 32, 33, 34, 37, 39, 41, 42, and 44 – We approve these Articles from the Annual Town Meeting of March 22, 2021.¹

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

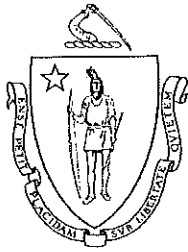
Margaret J. Hurley

by: Margaret J. Hurley, Assistant Attorney General
Chief, Central Massachusetts Division
Director, Municipal Law Unit
Ten Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 x 4402

cc: Town Counsel Mina Mikarious

RECEIVED
2021 JUL 28 PM 1:40
TOWN CLERK
LEXINGTON MA

¹ We issued our decision on Article 29 (b) by separate letter July 28, 2021.



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

July 28, 2020

Nathalie L. Rice, Town Clerk
Town of Lexington
1625 Massachusetts Avenue
Lexington, MA 02420

Re: **Lexington Annual Town Meeting of March 22, 2021 -- Case # 10066**
Warrant Articles # 39, 41, 42 and 44 (Zoning)
Warrant Articles # 27, 29 (b), 32, 33, 34 and 37 (General)

RECEIVED
2021 JUL 28 PM 1:03
TOWN CLERK
LEXINGTON MA

Dear Ms. Rice:

Article 29 (b) – Because the Town has not yet obtained the special legislation that is necessary to authorize the Town to adopt the by-law “Regulating Fossil Fuel Infrastructure in Buildings,” we place the by-law on “hold” pursuant to G.L. c. 30, § 32 pending receipt of the special legislation.¹

I. Summary of Article 29

Under Article 29 the Town took two votes: Motion 1 to authorize a petition for special legislation and Motion 2 to adopt a by-law dependent on that special legislation.

A. Motion 1 – Petition for Special Legislation

In Motion 1 the Town voted to authorize the Board of Selectmen to file a petition for special legislation that would authorize the Town to “adopt and further amend general or zoning bylaws that restrict new building construction or major renovation projects that do not qualify as fossil fuel free.” (Article 29, Motion 1). The special legislation would also authorize the Building Commissioner and the Town to “enforce restrictions on new building construction and major renovation projects that do not qualify as fossil-fuel free, including through the withholding or conditioning of building permits.” (Article 29, Motion 1). Finally, the special legislation would “ratify” the by-law adopted under Motion 2 (summarized below).

¹ We will issue a separate decision on Articles 27, 32, 33, 34, 37 39, 41, 42 and 44 by July 28, 2020.

Because Motion 1 relates to a special act petition, and not a by-law adoption or amendment, this portion of Article 29 is not subject to Attorney General review under G.L.c. 40, § 32 and we issue no decision on Article 29, Motion 1.

B. Motion 2 – The By-law “Regulating Fossil Fuel Infrastructure in Buildings”

In Motion 2 the Town voted to adopt a new general by-law, Chapter 106, “Regulating Fossil Fuel Infrastructure in Buildings.” The by-law states that it will be effective “December 1, 2022 or six months following the date by which the Town is authorized by the Massachusetts General Court to regulate fossil fuel infrastructure, whichever is later.”

II. The Attorney General’s By-Law Review Process

Pursuant to G.L. c. 40, § 32, the Attorney General must review by-laws within 90 days of the town clerk’s submission of “adequate proof that all of the procedural requirements for the adoption of such by-law have been complied with.” Because the by-law adopted under Article 29, Motion 2, is dependent on the Town obtaining the special legislation referenced in Motion 1, the Town has not yet submitted all the documents necessary for us to complete our review. Therefore, pursuant to G.L. c. 40, § 32, we place the by-law adopted under Article 29, Motion 2, on “hold.” Once we receive confirmation that the special legislation has been fully approved, we will commence our review of the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Margaret J. Hurley

by: Margaret J. Hurley, Assistant Attorney General
Chief, Central Massachusetts Division
Director, Municipal Law Unit
Ten Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 x 4402

cc: Town Counsel Mina Mikarious

RECEIVED
2021 JUL 28 PM 1:03
TOWN CLERK
LEXINGTON MA

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the adjourned session of March 24, 2021 at the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 27**.

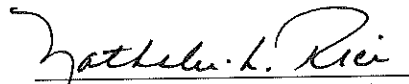
ARTICLE 27: INCREASE IN RECREATION COMMITTEE MEMBERSHIP

MOTION: That § 29-17 of the Committee Bylaw, Chapter 29 of the Code of the Town of Lexington, be amended by replacing the word "five" with the word "seven" in the second sentence thereof, thereby increasing the membership of the Recreation Committee from five to seven members.

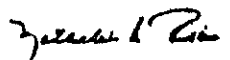
Declared Adopted with 170 in the affirmative and zero in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TRUE COPY ATTEST



TOWN CLERK
LEXINGTON, MA

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the Annual Town Meeting on March 22, 2021, the following motion was adopted under **ARTICLE 29, MOTIONS 1 and 2.**

ARTICLE 29: CLEAN HEAT-AUTHORIZE SPECIAL LEGISLATION TO REGULATE FOSSIL FUEL INTRASTRUCTURE AND ADOPT BYLAW AMENDMENT ENABLING LEGISLATION

MOTION 1: That the Select Board be authorized to petition the Massachusetts General Court to enact legislation in substantially the form below, and further that the Select Board be authorized to approve amendments to said legislation before its enactment by the General Court that are within the scope of the general objectives of this motion:

AN ACT AUTHORIZING THE TOWN OF LEXINGTON TO ADOPT AND ENFORCE LOCAL REGULATIONS RESTRICTING NEW FOSSIL FUEL INFRASTRUCTURE IN CERTAIN CONSTRUCTION

Be it enacted as follows:

SECTION 1. Notwithstanding chapter 40A, section 13 of chapter 142, and chapter 164 of the General Laws, the State Building Code, the Fuel and Gas Code, or any other general or special law or regulation to the contrary, the Town of Lexington is hereby authorized to adopt and further amend general or zoning bylaws that restrict new building construction or major renovation projects that do not qualify as fossil fuel-free.

SECTION 2. Notwithstanding section 7 of chapter 40A of the General Laws, or any other general or special law or regulation to the contrary, the Building Commissioner of the town of Lexington, or their designee, shall be authorized to enforce restrictions on new building construction and major renovation projects that do not qualify as fossil fuel-free, including through the withholding or conditioning of building permits.

SECTION 3. As used in this act, the term "fossil fuel-free" shall mean new building construction or major renovation that results in an entire building or an entire condominium unit that does not utilize coal, oil, natural gas other fuel hydrocarbons (including synthetic equivalents), or other fossil fuels in support of its operation after construction.

SECTION 4. This act shall take effect upon its passage. Any bylaw previously approved by the Lexington Town Meeting consistent with Sections 1 through 3 of this Act, including, without

limitation Chapter 106 of the Code of the Town of Lexington as enacted by the 2021 Lexington Town Meeting, is hereby ratified.

SECTION 5. If any provision or section of this act is invalidated, the remainder shall survive in full force and effect.

MOTION 2:

And further, that the Code of the Town of Lexington be amended by adding a new Chapter 106, "Regulating Fossil Fuel Infrastructure in Buildings", as follows:

REGULATING FOSSIL FUEL INFRASTRUCTURE IN BUILDINGS

Section 1 Purpose

This Bylaw is adopted by the Town of Lexington to protect health, safety, and the natural environment and reduce air pollution and greenhouse gas emissions, which causes climate change, thereby threatening the Town and its inhabitants.

Section 2 Definitions

"Effective Date" shall mean December 1, 2022, or six months following the date by which the Town is authorized by the Massachusetts General Court to regulate fossil fuel infrastructure, whichever is later.

"New Building" shall mean a new building or new accessory building, as defined in the Lexington Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, associated with a building permit application filed on or after the Effective Date.

"On-Site Fossil Fuel Infrastructure" shall mean piping for fuel gas, fuel oil, or other fuel hydrocarbons, including synthetic equivalents, that is in a building, in connection with a building, or otherwise within the property lines of a premises, extending from a supply tank or from the point of delivery behind a gas meter or the customer-side of a gas meter.

"Major Renovation" shall mean a project associated with a valid building permit application filed on or after the Effective Date of this article that:

for existing structures regulated by the current edition of the International Residential Code as amended by 780 CMR 51: Massachusetts Residential Code, includes the reconfiguration of space and/or building systems, in which the Work Area, not including any added space, is more than 75% of the Gross Floor Area of the principal dwelling, as defined in the Lexington Zoning Bylaw, prior to the project; and

for existing structures regulated by the current edition of the International Building Code as amended by 780 CMR 34: Massachusetts Commercial Code, includes the reconfiguration of space and/or building systems, in which the Work Area, not including any added space, is more than 50% of the building floor area prior to the project, as defined by the Massachusetts Building Code.

“Work Area” shall mean the portions of a building affected by renovations for the reconfiguration of space or building systems, as shown in the drawings included with a building permit application. Areas consisting of only repairs, refinishing, or incidental work not

associated with the renovations or reconfiguration for which a building permit is required are excluded from the Work Area.

Section 3 Applicability

This Chapter shall apply to all building permit applications for New Buildings and Major Renovations proposed to be located in whole or in part within the Town, except that this Chapter shall not apply to:

- A. utility service piping connecting the grid to a meter, or to a gas meter itself;
- B. piping required to:
 - i. fuel backup electrical generators, indoor or outdoor cooking appliances, indoor or outdoor fireplaces or fire features, or appliances for outdoor heating; or
 - ii. produce potable or domestic hot water from centralized hot water systems in commercial buildings with building floor areas of at least 10,000 square feet, provided that the Engineer of Record certifies that no commercially available electric hot water heater exists that could meet the required hot water demand for less than 150% of installation or operational costs, compared to a conventional fossil fuel hot water system;
- C. the extension or modification of heating systems via HVAC system modification, or modification of radiator, steam, or hot water piping, provided new fossil fuel piping is not installed;
- D. life science buildings, research laboratories for scientific or medical research or medical offices regulated by the Massachusetts Department of Public Health as a healthcare facility; or
- E. repairs of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

Section 4 Enforcement

1. On and after the Effective Date, no building permit shall be issued by the Town for the construction of New Buildings or Major Renovations that include the installation of new On-Site Fossil Fuel Infrastructure subject to this Chapter.
2. The Town Manager, or their designee, shall publish and present an annual report to the Select Board quantifying the number and location of building permit applications for new and major renovation projects exceeding 50% of the original gross floor area of the principal dwelling; the number of new and major renovation projects requesting a waiver from this Chapter, the disposition of those waivers, the reasons for granting or denying those waivers and the square footage of each project for which a waiver is granted.
3. The Select Board may adopt additional requirements, exemption, and regulations to implement or enforce said new fossil fuel infrastructure restrictions in major construction, consistent with this Chapter.

Section 5 Waivers

- A. The Building Commissioner may grant a waiver from the requirements of this Chapter in the event that compliance with the provisions of this Chapter makes a project financially infeasible or impractical to implement. Compliance with this Chapter may be considered infeasible if, without limitation:
 - a. as a result of factors beyond the control of the proponent, the additional cost of the project over the long term, including any available subsidies, would make the project commercially unviable; or
 - b. technological or other factors would make the project unsuitable for its intended purpose.
- B. Waivers from compliance with this Chapter may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Chapter, rather than entire projects.
- C. Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans.

- D. In considering a request for a waiver, the Building Commissioner may consider as a factor the requesting party's status as a non-profit or government-sponsored affordable housing entity.
- E. The Building Commissioner's decision with respect to the granting of a waiver, the scope thereof, and any conditions imposed by a waiver, shall be appealable to the Select Board, or its designee, within thirty (30) days in accordance with policies established by the Select Board.
- F. The Select Board shall, prior to the Effective Date issue, and may thereafter amend, guidance regarding the process for requesting and granting waivers, and describing reasonable conditions that may be placed on a waiver.

Section 6 Appeals

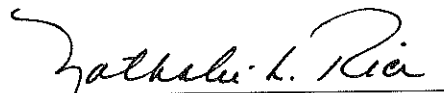
The Select Board, or its designee, shall hear appeals from decisions of the Building Commissioner under this Chapter.

MOTION 1: Declared Adopted with 175 in the affirmative and 7 in the negative.

MOTION 2: Declared Adopted with 165 in the affirmative and 13 in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the adjourned session of April 14, 2021 at the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 32**.

ARTICLE 32: AMEND GENERAL BYLAWS-RECEIVE APPRAISED VALUE FOR REMOVED TREES

MOTION: That § 120-7.B of the Tree Bylaw, Chapter 120 of the Code of the Town of Lexington, be amended as follows, where underlined text is to be added:

Procedures. Any person seeking to prune or remove a public shade tree or Town tree shall submit an application to the Tree Warden in accordance with any application requirements issued by the Tree Warden. The Tree Warden shall hold a public hearing on applications for removal, at the expense of the applicant, in accordance with the provisions outlined within General Law Chapter 87. In addition to any public notice required by said G.L. c. 87, the Town shall contemporaneously provide notice of the public hearing on the Town's website and through such other electronic means as it deems appropriate. If the Tree Warden or Select Board permits a person, other than the Town or an agent of the Town, to remove a public shade tree or Town tree, the Select Board, or its designee, shall require the applicant to obtain an appraisal of the value of the tree, at the applicant's expense, and to pay the appraised value of the tree, as determined by a member of the American Society of Consulting Arborists using the Council of Tree and Landscape Appraisers trunk formula method. Such payments shall be deposited in the Lexington Tree Fund. The Select Board may, at the request of the applicant, waive the requirement to pay all or a portion of the appraised value of the Tree pursuant to this paragraph if the Select Board determines that the removal of the tree is required as part of a project intended to serve a public purpose or due to other extenuating circumstances. The permit issued by the Tree Warden may specify schedules, terms, and conditions including, requiring the planting of replacement trees.

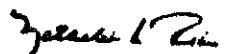
Declared Adopted with 169 in the affirmative and 8 in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TRUE COPY ATTEST



TOWN CLERK
LEXINGTON, MA

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the adjourned session of April 14, 2021 at the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 33**.

ARTICLE 33: AMEND GENERAL BYLAWS – TREE BYLAW: DATA COLLECTION AND EDUCATION

MOTION: That the Town's Tree Bylaw, Chapter 120 of the Code of the Town of Lexington, be amended as follows:

(i) Add the following sentence after the first sentence of § 120-8.B: "The owner shall also submit the tree species, if known, location, DBH for all trees on the property of six-inch DBH or greater, whether or not they are proposed to be removed, and for any trees six inches DBH or greater that are proposed to be removed, the reason for removal and alternatives to removal considered."

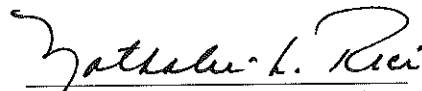
(ii) Add the following § 120-8.F:

Upon removal of any tree of six-inch DBH or greater, the owner of the property on which the tree is located shall provide information to the Town regarding the removal of that tree and the reason for its removal. The owner shall also provide a plan identifying the location, species (if known), and DBH of any trees so removed, remaining trees six inches DBH or greater, and any trees planted as mitigation pursuant to Section 120-8.C.

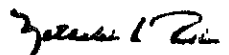
Declared Adopted with 160 in the affirmative and 16 in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TRUE COPY ATTEST



TOWN CLERK
LEXINGTON, MA

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the adjourned session of April 14, 2021 at the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 34**.

ARTICLE 34: AMEND GENERAL BYLAWS-TREE BYLAW FEES AND MITIGATION PAYMENTS

MOTION: That the Tree Bylaw, Chapter 120 of the Code of the Town of Lexington, be amended as follows:

(a) Amend § 120-8.B.1 as follows, where ~~struck through~~ text is to be removed and underlined text is to be added:

If any protected trees will be removed or damaged in connection with major construction or demolition, the owner of the property shall submit a proposal for tree removal and mitigation to the Building Commissioner with the application for a building or demolition permit. Additionally, if any protected trees were removed during the 12 months preceding the application for the building or demolition permit, a tree removal and mitigation proposal regarding the protected trees already removed shall be submitted to the Building Commissioner. The proposal shall satisfy the mitigation requirements set forth below and any rules, regulations or manuals promulgated by the Selectmen. The Selectmen shall set an application fee. Such fee shall be at least \$5 \$20 per DBH inch of protected tree to be removed. The Select Board shall annually evaluate the adequacy of the fee and adjust it as needed, or shall designate a Town official to annually review the fee and adjust it as needed.

(b) Amend the first sentence of § 120-8.C.1 by replacing "1/2" with "1/4."


(c) Amend § 120-8.C.2 by replacing "\$100" with "\$200."

(d) Amend § 120-16 by replacing "2 times inches removed" with "4 times inches removed" in the row marked "Level 2" of the Replacement Inch Calculation Table.

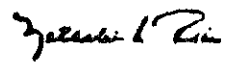
Declared Adopted with 178 in the affirmative and 2 in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TRUE COPY ATTEST


TOWN CLERK
LEXINGTON, MA

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the March 24, 2021 adjourned session of the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 37**.

ARTICLE 37: AMEND GENERAL BYLAW – STORMWATER MANAGEMENT (CHAPTER 114)

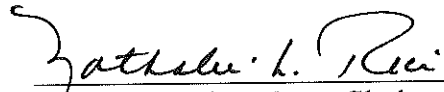
MOTION: That §114-4.A(3)(a) of the Stormwater Management Bylaw, Chapter 114 of the Code of the Town of Lexington, be amended as follows, where ~~struck-through~~ text is to be removed:

Requires a special permit or a ~~special permit with~~ site plan review.

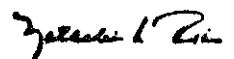
Declared Adopted with 179 in the affirmative and zero in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TRUE COPY ATTEST


TOWN CLERK
LEXINGTON, MA

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the adjourned session of March 31, 2021 of the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 39**.

ARTICLE 39: AMEND ZONING BYLAW – HISTORIC PRESERVATION INCENTIVES

MOTION: That §135-6.2 of the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be replaced with the following:

6.2 HISTORIC PRESERVATION INCENTIVES

6.2.1 Purpose.

The general objectives of this section are to:

1. Encourage preservation of buildings, structures, sites, settings, and other elements of historical or architectural significance;
2. Establish eligibility criteria for buildings, structures, sites, settings, and other elements attaining protected status under §6.2.2;
3. Expand economic options for owners, by broadening the permitted uses in various zoning districts and removing barriers presented by development standards governing those uses;
4. Permit flexibility of development options by modifying dimensional requirements that might be an impediment to historic preservation; and
5. Provide incentives to preserve contributory elements of historic or architectural significance, such as settings, sites, objects, monuments, trees, or other elements.

6.2.2 Historic Eligibility Defined.

Any historic building, structure, site, setting, object, monument, tree, or any other element of historical, architectural or cultural significance that contributes value in establishing historical context, may qualify for eligibility under this section, if it is included on any of the following lists or surveys:

1. National Register of Historic Places;
2. Massachusetts State Register of Historic Places;
3. Lexington Comprehensive Cultural Resources Survey; or
4. Pending nominations in good standing to the National or State Register.

6.2.3 Review by Historical Commission.

The Historical Commission shall review applications and advise the SPGA on whether, in the Commission's view, the proposed renovation, repair, adaptive reuse, or relocation preserves the historical and architectural features of the building, structure, or elements if renovated or relocated according to the plans.

6.2.4 Special Permit.

The SPGA, after making the findings required by §6.2.5 below, may grant a special permit to authorize the following uses and activities in order to allow the renovation, repair, adaptive reuse or, in limited instances, relocation of historic or architecturally significant buildings, structures, or elements:

1. Permit uses permitted in another district but not as of right in the district in which the historic or architecturally significant building, structure or element is to be located;
2. Modify the operating or development standards contained in Table 1, Permitted Uses and Development Standards;
3. Modify the standards for bed-and-breakfast homes (§6.5), congregate living facilities (§6.6), and accessory apartments (§6.7);
4. Modify the dimensional controls of §4.0;
5. Modify the off-street parking and loading requirements of §5.1; and
6. Modify the landscaping, transition and screening requirements of §5.3.

6.2.5 Required Findings.

In order to grant a special permit, the SPGA shall determine that:

1. The uses or the modification of standards and requirements authorized in §6.2.4 are necessary to maintain the historic or architecturally significant building, structure, or element;
2. The proposed renovation, repair, adaptive reuse, or relocation preserves, to the maximum extent feasible, the historical and architectural features of the building, structure, or element;
3. For relocation of buildings, structures and elements to another location, no other preservation measures are practical or reasonable, on the existing site;
4. The historical and architectural features of the building, structure, or element will be preserved for the duration of the special permit;

5. Failure to grant the special permit is likely to result in inappropriate use or physical modification or demolition of the building, structure, or element; and
6. The use or the modification of standards and requirements will not generate negative impacts to the surrounding area or zoning district or that any negative impacts generated may be feasibly mitigated.

6.2.6 Contributory Lots.

For one or more lots that do not otherwise qualify under §6.2.2, the SPGA may grant a special permit to modify the standards of §3.3, 6.3, 7.1, 7.2, and 7.3; the dimensional controls of § 4.0; the landscaping, transition and screening requirements of §5.3; and the off-street parking and loading requirements of §5.1, provided that the SPGA makes a finding that such modifications are necessary to make historic preservation feasible on another lot within the same development on which an historic element, as defined in §6.2.2, is located.

Declared Adopted by the necessary two-thirds with 143 in the affirmative and 34 in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the adjourned session of March 31, 2021 at the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 41**.

ARTICLE 41: AMEND ZONING BYLAW STRUCTURES IN SETBACKS

MOTION:


That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be amended by adding the following §4.2.6:

4.2.6 Accessory Buildings in Setbacks. One accessory building, including tool or storage sheds for household equipment or other similar accessory use, but, for the purposes of this section, not including garages or chicken coops, may be located in a side or rear yard, but no closer than five feet to a lot line, provided that the accessory building covers less than 150 square feet and that neither the height nor the length of such accessory building is greater than 12 feet.

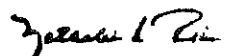
Declared Adopted by the necessary two-thirds with 161 in the affirmative and 17 in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TRUE COPY ATTEST



TOWN CLERK
LEXINGTON, MA

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the adjourned session of March 24, 2021 at the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 42**.

ARTICLE 42: AMEND ZONING BYLAW – FLOODPLAIN MANAGEMENT

MOTION: That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be amended by adding the following §135-7.1.7:

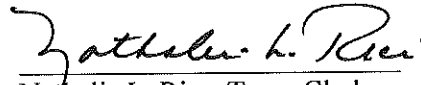
7.1.7 Floodplain Administrator.

The Town Manager or their designee shall serve as the official Floodplain Administrator for the Town of Lexington.


Declared Adopted with 179 in the affirmative and zero in the negative.

A true copy.

Attest:


Nathalie L. Rice, Town Clerk

TRUE COPY ATTEST


TOWN CLERK
LEXINGTON, MA

TOWN CLERK'S CERTIFICATE

I, Nathalie L. Rice, Clerk of the Town of Lexington, Massachusetts, hereby certify that at the adjourned session of March 31, 2021 at the Annual Town Meeting commenced on March 22, 2021, the following motion was adopted under **ARTICLE 44**.

ARTICLE 44: AMEND ZONING BYLAW – USE AND GENERAL REGULATIONS

MOTION: That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be amended as follows, where ~~struck through~~ text is to be removed and underlined text is to be added, except where otherwise stated below, and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Lexington:

1. Amend §135-3.4 Table 1, Permitted Uses and Development Standards, section N, to add new rows and modify existing rows as follows:

N.	MANUFACTURING, RESEARCH AND DEVELOPMENT, LIFE SCIENCE, AND TECHNOLOGY USES												
N.1.0	AS A PRINCIPAL USE												
		GC	RO	RS	RT	CN	CRS	CS	CB	CLO	CRO	CM	CSX
N.1.01	Light manufacturing	N	N	N	N	N	N	N	N	N	N	Y	N
N.1.02	Laboratory engaged in research, experimental and testing activities, which may include the development of mockups and prototypes but not the manufacture of finished products <u>Research and development (R&D)</u>	N	N	N	N	N	N	N	N	N	Y	Y	N
N.1.03	(reserved)												
N.1.04	Biotech manufacturing	N	N	N	N	N	N	N	N	N	SP	Y	N
N.1.05	<u>Brewery, winery, distillery, cidery</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>	<u>N</u>
N.1.06	<u>Makerspace</u>	<u>Y</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>

2. Amend §135-5.1.5, Table of Loading Requirements, by replacing certain rows as follows:

Type of Use	Loading Factor	
Office uses	0 per first 10,000 SF; 1 for next additional 50,000 SF; 1 for each additional 100,000 SF thereafter	
Office uses	Less than 10,000 SF	<u>0</u>
	10,000-150,000 SF	<u>1</u>
	150,001-300,000 SF	<u>2</u>
	More than 300,000 SF	<u>3</u>
Personal, business service uses, retail sales or rental uses	1 per first 5,000 SF; 1 per each additional 15,000 SF	
Retail, shopping centers, business service uses, personal uses	15,000 to 50,000 SF	<u>1</u>
	50,000 to 150,000 SF	<u>2</u>
	150,000 to 300,000 SF	<u>3</u>
	More than 300,000 SF	<u>4</u>
Restaurants and other eating or food service uses	1 per first 99 seats; 1 per all additional seats	
Manufacturing research, construction, storage, distribution and industrial service uses	1 per first 10,000 SF; 1 per each additional 40,000 SF	
Manufacturing, research, construction, storage, distribution and industrial service uses, research and development, light manufacturing	Less than 150,000 SF	<u>1</u>
	150,001-300,000 SF	<u>3</u>
	More than 300,000 SF	<u>4</u>

3. Amend §135-5.1.7, Preferential Rideshare Parking, as follows:

5.1.7 Preferential Rideshare Parking. To encourage the use of high-occupancy vehicles, office, manufacturing, research, or laboratory uses of more than 50,000 square feet of gross floor area, as defined in the parking and loading tables above, must provide preferential rideshare parking spaces in compliance with the following standards:

1. One carpool or vanpool parking space must be provided for every ~~150~~ 50 motor vehicle parking spaces, with a minimum of two spaces.
2. Rideshare parking spaces may be provided by converting a parking space required by the parking table.
3. Carpool and vanpool spaces must be signed and striped, and be located near the primary entrance(s) of the building without displacing any handicapped parking.

4. Amend §135-5.1.8, Bicycle Parking Facilities, as follows:

1. Required spaces. In an office, manufacturing, research or laboratory use as defined in the ~~parking and loading tables~~ Table of Parking Requirements, a minimum of two bicycle parking spaces shall be provided, and one additional bicycle parking space shall be provided for each

~~increment of 20~~ 15 motor vehicle parking spaces ~~over 40 vehicle spaces.~~

5. Amend §135-5.1.9, Location of Off-Street Parking Spaces and Loading Bays, as follows:

1. Except as provided below, Required off-street parking spaces shall be provided on the same lot as, and loading bays shall be provided next to or within the principal or accessory use they are required to serve.

2. Except for accessible parking, required off-street parking spaces serving a use on a lot may be provided on a different lot, provided that:

a. the off-street parking space is dedicated to serve the use pursuant to a legal agreement in a form acceptable to the Town; and

b. the parking space is either within 1,200 feet of the lot containing the use; or public transportation, shuttle, car sharing, or non-motorized transportation service is available between the off-street parking space and the use during business hours.

23. No area may be utilized and counted as both a required parking space and a required loading bay. However, maneuvering aisles and driveways may serve both required parking and loading bays if they meet the design standards of each. Existing areas used for both parking and loading shall be counted for loading purposes.

34. Required off-street parking spaces or loading bays may be wholly or partly enclosed in a structure.

45. Off-street parking spaces required for two or more buildings, uses, or establishments on a single lot may be provided in a common lot.

6. Loading bays shall be located at the side or rear of a building.

7. Off-street surface parking spaces shown on the parking and loading plan may, with the permission of the SPGA or Building Commissioner, be constructed following issuance of a certificate of occupancy.

6. Amend §135-5.1.13.9.c as follows:

c. Trees required by this section shall be at least three ~~two~~ inches in diameter at a height four feet above the ground at the time of planting. New trees and shall be native or hybrid native species. ~~of a species characterized by suitability and hardiness for location in a parking lot.~~ To the extent practicable, existing trees shall be retained and used to satisfy this section.

7. Amend §135-5.1.13 to add new subsections as follows (new text is not underlined):

11. Electric vehicle (EV) charging. A parking lot with twenty-five (25) or more newly constructed off-street parking spaces shall include Level 2 (or higher) electric vehicle (EV) charging stations in a minimum of four percent (4%) of the total off-street parking spaces, but not more than the total of the newly constructed parking spaces. In addition, the parking lot shall be constructed with appropriate conduits and space for transformers and switchgear to allow for future installation of electric vehicle (EV) charging stations for a minimum of fifty (50) percent of the

total off-street parking spaces, but not more than the total of the newly constructed parking spaces.

12. Surface parking between a building (other than a parking structure) and a public right-of-way to which the property has direct access is not permitted, except if screened or required for accessible and temporary parking.

8. Amend §135-9.5.5 as follows:

9.5.5 Review Standards. The Planning Board in its regulations shall establish standards for site plan review of activities and uses not covered by §9.5.6 that will at a minimum address the following:

1. Siting of facilities;
2. Sustainable, climate-sensitive, and environmentally-conscious site design practices;
3. Open space, and natural features, and the landscape, emphasizing the function of natural, aesthetic, social, and reactional design;
4. Ecosystem function;
45. Circulation and connectivity that is safe and accessible for all;
6. Effective and efficient transportation systems and the adverse impacts of motor vehicle transportation;
57. Protection of surface and groundwater ~~Water quality;~~
68. Town character and historic significance;
79. Impacts on public services and facilities;
810. Signage;
911. Safety;
10. ~~Energy efficient site design, and~~
112. Potential adverse effects of development.

9. Amend §135-10.1, Definitions, to amend certain existing definitions as follows:

BUSINESS OR PROFESSIONAL OFFICE

A building or part thereof, for the transaction of business or the provision of services; exclusive of the receipt, sale, storage, or processing of merchandise, but including office of a professional, advertising, editing, composition (but not a printer), employment agency, civic or social association, office of a manufacturer's representative or salesperson, flex office, and computer software and technology development.

LIGHT MANUFACTURING

Fabrication, processing, clinical manufacturing, pharmaceutical contract manufacturing outsourcing, or assembly employing only electric or other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing, or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration.

RESTAURANT

An establishment primarily for serving by a waiter or waitress and consumption of meals at tables or at a counter, on the premises. A brewpub serving at least twenty-five (25) percent of the establishment's brewing production capacity on-site shall be classified as a restaurant.

10. Amend §135-10.1, Definitions, to add the following new definitions (new text is not underlined):

CLINICAL MANUFACTURING

Early-stage clinical testing and manufacturing to achieve the development of drug product and batch manufacturing.

FLEX OFFICE

A place where individual small business owners or employees, remote workers, or freelancers can work alongside one another in a common space, or a business incubator, where individuals working to launch a new business can rent space in which to perform office work and access shared resources such as printers, scanners, and other tools and services such as financial counseling and management training. A flex office may also be used for light manufacturing or makerspace.

MAKERSPACE

A collaborative workspace inside a building or portion thereof that is used for the on-site production of parts or finished products by an individual or shared use of hand tools, mechanical tools, and electronic tools. Such space may allow for the design and prototyping of new materials, fabrication methodologies, and products, as well as space for packaging, incidental storage, sales, and distribution of such products. Makerspaces may host classes or networking events that are open either to the public or to current prospective members.

PHARMACEUTICAL CONTRACT MANUFACTURING OUTSOURCING

A business providing drug development and drug manufacturing services in the pharmaceutical industry on a contract basis.

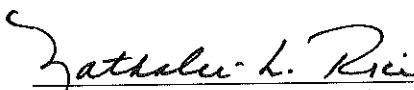
RESEARCH AND DEVELOPMENT

Research, development, and testing conducted in dry labs, wet labs, or other types of facilities related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering, which may include the development of mockups and prototypes but not the manufacture of finished products, provided all activities are conducted within entirely enclosed buildings and produce no noise, smoke, glare, vibration, or odor detectable beyond the property lines of the property abutting a residential area and shall otherwise comply with the Town's Noise Bylaw.

Declared Adopted by the necessary two-thirds with 181 in the affirmative and 1 in the negative.

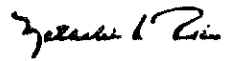
A true copy.

Attest:


Nathalie L. Rice, Town Clerk

Page 5 of 5

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LEXINGTON, MA**